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Attorney for Defendant
AKRUM ALRAHIB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AKRUM ALRAHIB,

Defendant.

Case No.2:21-CR-00185-WBS

**STIPULATION AND ORDER
REGARDING USE OF
VIDEOCONFERENCING DURING
SENTENCING**

Date: April 25, 2022
Time: 9:00 a.m.
Judge: Hon. William B. Shubb

BACKGROUND

On October 4, 2021, the defendant Akrum Alrahib agreed to waive indictment and was charged by information. ECF Nos. 1, 6, 8. On November 8, 2021, via video teleconference, Alrahib pleaded guilty to Count One of the Information, charging conspiracy to commit mail fraud, pursuant to a plea agreement. ECF Nos. 4, 18. This matter is now set for a sentencing hearing on April 25, 2022, at 9:00 a.m.

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"). The CARES Act empowered the Judicial Conference of the United States and Chief District Judges to authorize

1 plea and sentencing hearings by video or telephonic conference when such
2 hearings cannot be conducted in person without seriously jeopardizing public
3 health and safety, and “the district judge in a particular case finds for specific
4 reasons that the plea or sentencing in that case cannot be further delayed without
5 serious harm to the interests of justice.” Coronavirus Aid, Relief, and Economic
6 Security Act, Pub. L. No. 116-23, § 15002(b)(2), 134 Stat. 281, 527–29 (2020).

7 On March 29, 2020, the Judicial Conference of the United States made the
8 findings required by the CARES Act, concluding that “emergency conditions due
9 to the national emergency declared by the President under the National
10 Emergencies Act (50 U.S.C. § 1601, et seq.) with respect to the Coronavirus
11 Disease 2019 (COVID-19) have materially affected and will materially affect the
12 functioning of the federal courts generally.”

13 On March 29, 2022, for the reasons set forth in General Orders 610, 611,
14 612, 613, 614, 615, 616, 617, 618, 620, 621, 624, 628, 630, 631, 635, 640 and
15 649, the Chief Judge of this District, per General Order 649, extended the findings
16 and authorizations required by the CARES Act for another ninety days from
17 March 29, 2022, the date of entry of General Order 649.

18 In order to authorize change of plea and sentencing hearings by remote
19 means, however, the CARES Act—as implemented by the General Orders listed
20 above—also requires district courts in individual cases to find, for specific
21 reasons, that felony pleas and sentencings cannot be further delayed without
22 serious harm to the interests of justice. *Id.* The General Orders listed above
23 require that the defendant consent to remote proceedings. Finally, remote
24 proceedings must be conducted by videoconference unless “video
25 teleconferencing is not reasonably available.” *Id.* In such cases, district courts
26 may conduct hearings by teleconference. *Id.*

27 The parties hereby stipulate and agree that each of the requirements of the
28 CARES Act and the General Orders listed above have been satisfied in this case.

1 They request that the Court enter an order making the specific findings required
2 by the CARES Act and the General Orders listed above. Specifically, for the
3 reasons further set forth below, the parties agree that:

4 1. The sentencing hearing in this case cannot be further delayed
5 without serious harm to the interest of justice, given the public health restrictions
6 on physical contact, the fact that the defendant has already pleaded guilty, and
7 the backlog of cases that is likely to increase in the Eastern District of California if
8 criminal matters do not resolve by videoconference when the defendant consents
9 and once an agreement has been reached between the parties and they are
10 ready for sentencing;

11 2. The defendant waives his physical presence at the hearing and
12 consents to remote hearing by videoconference; and

13 3. Defense counsel joins in that waiver.

14 **STIPULATION**

15 Plaintiff United States of America, by and through its counsel of record, and
16 the defendant, by and through his counsel of record, hereby stipulate as follows:

17 1. The Governor of the State of California declared a Proclamation of a
18 State of Emergency to exist in California on March 4, 2020.

19 2. On March 13, 2020, the President of the United States issued a
20 proclamation declaring a National Emergency in response to the COVID-19
21 pandemic.

22 3. In their evolving guidance, the Centers for Disease Control and
23 Prevention (the "CDC") and other public health authorities have suggested the
24 public avoid crowds, practice physical distancing between individuals, and wear
25 masks in indoor settings under certain conditions to potentially slow the spread of
26 COVID-19 and its variants, such as the highly contagious, current Omicron
27 variant.

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1 4. On March 17, 2020, the Court issued General Order 611, noting the
2 President's and Governor of California's emergency declarations and CDC
3 guidance, and indicating that public health authorities within the Eastern District of
4 California had taken measures to limit the size of gatherings and practice social
5 distancing. General Order 612, which issued the following day, provided that if
6 any criminal matters are maintained on calendar, to the fullest extent possible
7 they should be conducted by telephone or videoconference.

8 5. General Order 614, issued on March 30, 2020, found that felony plea
9 and sentencing hearings generally could not be conducted in person in this
10 district without seriously jeopardizing public health and safety. General Order 614
11 also authorized, under authority of the CARES Act, videoconferencing and
12 telephone conferencing in different criminal proceedings. General Order 614
13 allowed for use of videoconferencing technology for felony change of plea and
14 sentencing hearings with the defendant's consent, if a judge finds that the hearing
15 cannot be further delayed without serious harm to the interests of justice.

16 6. On April 16, 2020, the Judicial Council of the Ninth Circuit declared a
17 judicial emergency in this district pursuant to 18 U.S.C. § 3174(d), based on the
18 Eastern District of California's critically low resources across its heavy caseload.
19 The report accompanying the Judicial Council's declaration analyzed the public
20 safety dangers associated with the COVID-19 pandemic and examined both the
21 district's caseload (the Eastern District of California currently ranks first in the
22 Ninth Circuit and eighth nationally in weighted filings) and its shortage of judicial
23 resources (the district is currently authorized only six district judges, and two of
24 those positions are currently vacant). The report further explained that a backlog
25 of cases exists that can only start to be alleviated when the CDC lifts its guidance
26 regarding gatherings of individuals.

27 7. General Orders 614, 616, 617, 618, 620, 621, 624, 628, 630, 632,
28 635, 640, and most recently, 649, filed on March 29, 2022, have also made

1 findings and implemented temporary emergency procedures in response to the
2 COVID-19 crisis, and these General Orders either remain in effect or have been
3 superseded by a subsequent General Order extending their provisions.
4 Specifically General Order 649 extended the court's ability to invoke the
5 authorizations granted in General Order 614 for an additional 90 days, through
6 the end of June 2022, unless terminated earlier.

7 8. Given these facts, it is essential that judges in this district resolve as
8 many matters as possible via videoconference and teleconference during the
9 COVID-19 pandemic. By holding these hearings now, this district will be in a
10 better position to work through the backlog of criminal and civil matters once in-
11 person hearings resume to a pre-pandemic extent.

12 9. The sentencing hearing in this case accordingly cannot be further
13 delayed without serious harm to the interests of justice. If the Court were to delay
14 this hearing until it can be held in person, it would only add to the enormous
15 backlog of criminal and civil matters facing the Court, and every judge in this
16 district, when normal operations resume.

17 10. Under CARES Act § 15002(b), the defendant consents to proceed
18 with the sentencing hearing by videoconference. Defense counsel joins in this
19 consent.

20 IT IS SO STIPULATED.

21
22 Dated: April 15, 2022.

Respectfully submitted,

SEGAL & ASSOCIATES, PC

23
24 By: /s/ Malcolm Segal

25 Malcolm Segal
26 Attorney for Defendant
27 AKRUM ALRAHIB
28

1 Dated: April 15, 2022.

2 By: /s/ Rosanne Rust

3 Rosanne L. Rust

4 Michael D. Anderson

5 Assistant United States Attorneys

6
7 **ORDER**

8 1. The Court adopts the findings above.

9 2. Further, the Court specifically finds that:

10 a) The sentencing hearing in this case cannot be further delayed
11 without serious harm to the interests of justice; and

12 b) The defendant has waived his physical presence at the sentencing
13 hearing and consents to remote hearing by videoconference.

14 3. Therefore, based on the findings above, and under the Court's
15 authority under § 15002(b) of the CARES Act and General Orders 614 and 649,
16 the sentencing hearing in this case will be conducted by videoconference.

17
18 IT IS SO ORDERED.

19
20 Dated: April 15, 2022



21 WILLIAM B. SHUBB

22 UNITED STATES DISTRICT JUDGE